

Honorable Thomas S. Zilly  
Judge Mary Alice Theiler

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VALVE CORPORATION, a Washington  
corporation,

Plaintiff,

v.

SIERRA ENTERTAINMENT, INC. (AKA  
SIERRA ON-LINE, INC.), a Delaware  
Corporation; VIVENDI UNIVERSAL  
GAMES, INC., a Delaware Corporation; and  
VIVENDI UNIVERSAL, S.A., A French  
foreign corporation,

Defendants.

SIERRA ENTERTAINMENT, INC. (AKA  
SIERRA ON LINE, INC., a Delaware  
corporation; and VIVENDI UNIVERSAL  
GAMES, INC., a Delaware corporation,

Counter-Claimants,

v.

VALVE CORPORATION, a Washington  
Corporation, GABE NEWELL and LISA  
MENNET NEWELL, husband and wife, and  
the marital community composed thereof;  
and SCOTT LYNCH and JULIE LYNCH,  
husband and wife, and the marital community  
composed thereof,

Counterclaim Defendants.

No. C 02-1683Z

DECLARATION OF H. MICHAEL  
DUNKLE IN SUPPORT OF VALVE'S  
OPPOSITION TO DEFENDANTS'  
MOTION FOR PROTECTIVE ORDER

**Noted For: September 24, 2004**

DECLARATION OF MICHAEL  
DUNKLE - 1  
C 02-1683Z

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PRESTON GATES & ELLIS LLP  
925 FOURTH AVENUE  
SUITE 2900  
SEATTLE, WASHINGTON 98104-1158  
TELEPHONE: (206) 623-7580  
FACSIMILE: (206) 623-7022

1  
2 H. Michael Dunkle hereby declares as follows:

3 1. I am over the age of eighteen years and I am competent to make this  
4 declaration. I make this declaration based on my own personal knowledge.

5 2. I employed by Valve Corporation ("Valve") and have been since November  
6 12, 2000. I am the Director of Valve's cybercafé program, and have held this position for  
7 over two years. Valve's cybercafé program involves licensing Valve's games and other  
8 software to cybercafés for commercial use on a pay-for-play basis. My duties include overall  
9 management and administration of Valve's cybercafé program, determining and  
10 implementing the technical requirements of the distribution software used when licensing  
11 cybercafés, promoting and marketing our programs, customer relations and advertising.

12 3. I am very familiar with the worldwide cybercafé market. Valve's game,  
13 Counter-Strike, is one of the most popular cybercafé games in the world.

14 4. As a means of boosting the sale of less popular, non-Valve titles, Vivendi often  
15 requires cybercafés to license a bundle of non-Valve games in order to get Counter-Strike.  
16 Vivendi, at times, will price the non-Valve games at a higher rate than that of Counter-Strike,  
17 thereby increasing its own profits at Valve's expense. Valve has become aware of this  
18 activity by Vivendi, in part through communications directly from cybercafés to Valve.

19 5. On September 20, 2004, Valve received an email from Dinko Georgiev, an  
20 owner of a cybercafé in Bulgaria, stating that Vivendi would only allow it to obtain a  
21 commercial license for Counter-Strike if it also purchased a package of non-Valve games. A  
22 true and correct copy of this email is attached at pp. 5-6.  
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DECLARATION OF MICHAEL  
DUNKLE - 2  
C 02-1683Z

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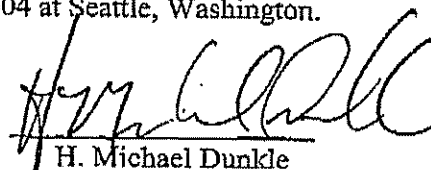
SEP-21-2004 04:53PM FROM-VALVE CORP

425-889-9642

T-485 P 004/005 F-724

1 I declare under penalty of perjury that the foregoing is true and correct:  
2

3 EXECUTED this 21st day of September, 2004 at Seattle, Washington.  
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5   
6 H. Michael Dunkle  
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DECLARATION OF MICHAEL  
DUNKLE - 3  
C 02-1683Z

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on September 21, 2004, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notification of such filing to the following,

Annette Hurst/Sarah King/Linda Q.  
Foy  
Howard Rice Nemerovski Canady  
Falk & Rabkin, P.C.  
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/s/ Jason P. Holtman

Karl J. Quackenbush, WSBA #9602

Jason P. Holtman, WSBA # 28233

Kristin J. Boraas, WSBA # 32015

Attorneys for Plaintiff

Valve Corporation

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DECLARATION OF MICHAEL

DUNKLE - 4

C 02-1683Z

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**Boraas, Kristin (SEA)**

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**From:** Holtman, Jason (SEA)  
**Sent:** Monday, September 20, 2004 12:27 PM  
**To:** Tessier, Dennis (SEA)  
**Cc:** Quackenbush, Karl (SEA); Boraas, Kristin (SEA); Rosenfield, Kevin (SEA)  
**Subject:** FW: Bulgarian Internet Cafe

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**From:** Julie Caldwell [mailto:Julie@valvesoftware.com] **On Behalf Of** CyberCafes  
**Sent:** Monday, September 20, 2004 12:09 PM  
**To:** Holtman, Jason (SEA); Mike Dunkle; Scott Lynch  
**Subject:** FW: Bulgarian Internet Cafe

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**From:** Dinko Georgiev [mailto:skkb\_ceo@yahoo.com]  
**Sent:** Friday, September 17, 2004 6:19 AM  
**To:** CyberCafes  
**Subject:** Bulgarian Internet Cafe

Dear Sir / Madam,

I am a member of the Asociation of the Internet Cafes in Bulgaria. Our country is small ( 8 000 000 people ) and not very well economically developed. For this reason there are a lot of Internet Cafes which offer chat, internet, games and films. At the moment there are about 2500 Internet cafes with aproximately 25 000-30 000 PC units (computers) in Bulgaria. The number of members in our organization is about 450-500 owners of Internet Cafes which is about 5 000 PC units ( computers ). The basic turnover is make by offering games - 80%. The most popular game is Counter Strike 60%, Vice City 30% and new games 10%. Up to this moment Counter Strike is sold to the clubs by organizations which use forse, threat and blackmail. The representativ of Vivendi in Bulgaria is Pulsar ( at least they say so ).

If we want to use Counter Strike we must buy a package of games of Vivendi, which we don't want. Besides we must buy new games from Vivendi that we don't want on every three months. The worst is that we must pay 426.00 leva /1.95 lev=1 Euro/ for one year. Also we can not buy games only for part of the PC units (computers), but we are obliged to buy games for all the computers in the Internet Cafe. The price of Half Life Generation is 73.00 leva and the price of Condition Zero is 77.00 leva. As you see it is not normal for a game which dates 5 years ago to cost as much as the new one. We are unable to play in world servers, which would be good for our turnover. We are forced to play in local pirate servers and for that service we have to pay 15\$ for a computer per month.

We have been told that Valve is independant company from Vivendi. Please submit information on how we would be able to use the game Counter strike legally, how we can use your servers and how we can pay for this. As the credit kards are not very popular in Bulgaria can we pay by bank?

Sincerely Yours

5  
9/21/2004

Dinko Georgiev

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